Supreme Court of the United States

OCTOBER TERM, 1966

No. 116

IN THE MATTER OF THE APPLICATION OF PAUL L. GAULT AND MARJORIE GAULT, FATHER AND MOTHER OF GERALD FRANCIS GAULT, A MINOR, APPELLANTS.

APPEAL FROM THE SUPREME COURT OF THE STATE OF ARIZONA

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[fol. A]

IN THE SUPREME COURT OF THE STATE OF ARIZONA

File No. 8476

In the Matter of the Application of PAUL L. GAULT and MARJORIE GAULT, father and mother of GERALD FRANCIS GAULT, a Minor, for a WRIT OF HABEAS CORPUS.

PETITION IN FORM OF AFFIDAVIT IN SUPPORT OF APPLICATION FOR WRIT OF HABEAS CORPUS—Filed August 3, 1964

State of Arizona,
County of Maricopa, ss.:

Paul L. Gault, being duly sworn, deposes and says, that he is the father of Gerald Francis Gault, a Minor, fifteen (15) years of age, born January 23, 1949; that deponent resides in Globe, Gila County, Arizona, with his address for mail being P. O. Box 1402 in Globe; that he is married to Marjorie Gault, who is the mother of said minor and they reside together with said minor as above. They make this affidavit as part of an application for the issuance of a Writ of Habeas Corpus to the Supreme Court and respectfully show the following:

I

That said minor is presently detained at the Arizona State Industrial School, Wilcox, Arizona, pursuant to a commitment made by the Honorable Robert E. McGhee, Judge of the Superior Court of Gila County on June 15, 1964 under case number 2379 of that Court.

[File endorsement omitted]

II

By said commitment Judge McGhee, acting as Juvenile Judge, found said minor to be a delinquent and ordered said child to be committed to the State Industrial School for the period of his minority, unless sooner discharged by due process of law; that said minor was immediately so committed and continues to be so committed.

[fol. B]

III

Deponent is advised by his attorney and therefore believes that his said son is being detained from his parents unlawfully; that his commitment was illegal; that the finding of the Juvenile Judge of the Superior Court that said minor is delinquent was made on insufficient evidence; that the rights of the said minor and the parents to be advised of their right to counsel were violated; that the parents were not served as required by law (section 8-224 ARS); that no testimony was taken at the hearing; that deponent and his wife were never clear on the point whether their own child was being charged or that he was being held as a witness against another, to wit, Ronny Lewis; and they did not hear the victim testify and therefore there was no opportunity to know if she was accusing deponent's son of anything.

IV

Deponent's said son Gerald was charged with lewd phone calls on or about June 8, 1964. The boy told his parents that a phone call was made in their trailer by a fifteen (15) year old neighbor Ronnie Lewis who used suggestive language to a woman, one Ora Cook of Globe; that there was only one such instance; that Gerald himself overheard but did not take part in the conversation; that he had dialed the number at Ronnie's request.

V

At the time of this charge, said minor was on probation of six months, having been charged on February 2, 1964

with grand theft, the details of which appear in the juvenile referral report in that Court in case 2288 of one Curtis Marion Uptain and state

> Curtis took a wallet containing $60.00 from a purse at the Alden Theater, purse belonged to Mary Hernandez, Curtis in company of Gerald Gault and Lasiter Uptain.

[fol. C] That deponent's said child admitted to him and to the Court on that occasion that he saw Curtis take the wallet from the purse and he followed him out of the theater; that he later assisted the police in recovering the wallet and the money, having known who took the same.

Wherefore, deponent respectfully prays that a Writ of Habeas Corpus issue, directed to said State Industrial School and to the person there having responsibility for the custody of their child Gerald who is being restrained of his liberty and illegally in such custody; that a time be set for a hearing on this matter, or that the same be referred to an appropriate tribunal for a hearing of the facts, and for such other relief as may be just.

Paul L. Gault.

Sworn to before me this 1st day of August, 1964

Amelia D. Lewis, Notary Public.

My commission expires 5/2/66.

Copy received Aug. 3, 1964, Stanley Newell, Ass't Atty. Gen.